

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

DAVID DEITZEL

v.

SPRINGFIELD TERMINAL RAILWAY
COMPANY

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CIVIL ACTION

NO. 03-12560-RGS

PLAINTIFF'S MOTION TO EXTEND TIME WITHIN WHICH TO FILE
OPPOSITION TO DEFENDANT'S MOTION FOR SUMMARY JUDGMENT

And now comes Plaintiff, David Deitzel, by and through his attorneys, Barish ♦ Rosenthal, and in support of his Motion to Extend Time within which to file an Opposition to Defendant's Motion for Summary Judgment from November 25, 2005 to December 19, 2005, avers as follows:

1. On November 14, 2005, Defendant filed a Motion for Summary Judgment, requesting that judgment be entered in its favor as a matter of law.
2. Pursuant to the Rules of Court, Plaintiff's opposition to the Motion for Summary Judgment must be filed on or before November 28, 2005.
3. In support of their Motion for Summary Judgment, Defendant alleges that they did not have actual and/or constructive notice of the alleged defective condition of the switch that caused Plaintiff's injury.

4. In Plaintiff's Answers to Defendant's Interrogatories, Plaintiff indicated that he received information from P.J. Collins, an engineer for Defendant, that the switch had been a problem prior to Plaintiff's accident and had been reported.

5. Given that P.J. Collins appears to have information as to Defendant's actual and/or constructive notice of the defective condition of the switch, Plaintiff would like to take the deposition of Mr. Collins.

6. Given Defendant's allegations in support of their Motion for Summary Judgment, Mr. Collins' testimony is required for Plaintiff's response to said Motion.

WHEREFORE, Plaintiff respectfully requests this Court grant an extension of thirty (30) days within which to file an Opposition to Defendant's Motion for Summary Judgment, Plaintiff's Opposition to be filed on or before December 19, 2005.

Respectfully submitted,
BARISH ♦ ROSENTHAL

BY: /s/ RUDOLPH V. DE GEORGE, II
Rudolph V. De George, II, Esquire
Attorney for Plaintiff, David Deitzel